

**ORIGINAL**

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

TEXAS PEANUT FARMERS, *et al.* )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 THE UNITED STATES, )  
 Defendant. )

No. 03-445C  
 (Judge Firestone)

**FILED**

**OCT 24 2005**

U.S. COURT OF  
 FEDERAL CLAIMS

**NOTICE OF NAMED PLAINTIFFS WHOSE CASES SHOULD BE  
 TRANSFERRED AND MOTION FOR AN ORDER REQUIRING THE GOVERNMENT  
 TO PRODUCE INFORMATION TO ASSIST IN THE TRANSFER OF PLAINTIFFS'  
 CASES TO THE APPROPRIATE FEDERAL DISTRICT COURTS**

NOW COME Class Counsel and Counsel for individual Plaintiffs and respectfully file this Notice regarding the identification of information as required by this Court's Order of October 12, 2005. Plaintiffs/Class Counsel also move for an order requiring the production of the government's information and certain other relief as set forth herein to assist in the further identification of the appropriate venues for transfer of Plaintiffs' cases.

This Court's Order of October 12, 2005 provides that Plaintiffs' Counsel is responsible for identifying the following by October 24, 2005:

1. Each named Plaintiff;
2. The judicial district(s) in which each plaintiff's farm is located; and
3. Whether the plaintiff has another action pending in the Eastern District of North Carolina (hereinafter "EDNC") that was centralized from a district court that had jurisdiction over the plaintiff's action under 28 U.S.C. § 1508(j)(2)(A).

Plaintiffs' counsel has at least one address provided by each of the named Plaintiffs.<sup>1</sup> Plaintiffs' Counsel cannot certify within the time ordered by the Court that the addresses provided by Plaintiffs include the complete answer to No. 2: the judicial district(s) in which each Plaintiff's farm is located. Counsel for the Plaintiffs requested information and assistance from the Defendants in previous correspondence and motions filed in various courts, in the reply memorandum and in a letter of October 12, 2005. For two years, the Government refuses to provide the requested information in their database regarding insurance payments for the 2002 crop year and instead recently state the burden is Plaintiff Counsel's: "Therefore, many of your questions are inappropriate because the court clearly did not place the burden upon the Government to take the next steps. Rather, the court clearly placed the burden upon you, as counsel for Plaintiffs take next steps." Class Counsel does not have the most pertinent data requested by the Court; the Defendants do.<sup>2</sup> However, Plaintiffs' counsel have reviewed the

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<sup>1</sup> An example of the original information provided by Plaintiff peanut farmers is attached hereto as **Exhibit 1.**)

<sup>2</sup> Based on information previously provided by the Government Defendants, there is no doubt, and the Government has not denied, that the Defendants have the information needed to determine the location of Plaintiffs' farms in their database. This is evidenced by the fact that the Defendants previously provided the information on certain Plaintiffs who were paid on claims for the 2002 crop year. Plaintiffs made numerous requests in the past and as recent as the September 28 Reply Memorandum sought an Order that the government provide information or assist in identifying the appropriate districts the Defendants contend each farmer has farmed. Plaintiffs/Class counsel repeatedly have requested this information and in the Reply Memorandum filed before this Court, Plaintiffs Counsel stated and requested: "If, however, this Court and the JPML determine that the longer process proposed by the Government must be followed, Plaintiffs' Class counsel request that the Court also ORDER the Government to provide the necessary information to Plaintiffs' Class Counsel to determine the appropriate federal district courts for each of the named plaintiffs so that cases can be transferred to each of the appropriate federal district courts." See *Plaintiffs' Reply To Defendants' Objection to Plaintiffs' Motion for Transfer of this Case to the Judicial Panel on Multi-District Litigation* filed September 28, 2005, pg. 18 as explained in Section D ("Class Counsel's Efforts to Obtain Information Regarding Other Named Plaintiff And Potential Class Members and Government's Refusal to Provide Information on Named Plaintiffs and Other Class Members.")

information in their possession and can provide the information set forth below and attached hereto and incorporated herein by reference.

Plaintiffs'/Class Counsel have reviewed the Complaints in each of the federal district courts which have cases now pending in the EDNC. Eight (8) cases, including the original EDNC case and one "tag-along" case, are pending in the EDNC. The headings and listing of plaintiffs in those transferee cases are set forth in **Exhibits 2A** and **2B**. The captions of the complaints with the listed Plaintiffs and their farms or county residences are attached as **Exhibits 3-9**.

The Plaintiffs listed in both the Court of Federal Claims case and one of the eight federal district courts are coded in blue (**Exhibit 10**). Upon information and belief, there may be approximately 92 plaintiffs in the Court of Federal Claims case who have claims presently pending in the EDNC as a result of the transfer of seven (7) cases (including one "tag-along action from the Middle District of Alabama) by the Judicial Panel on Multidistrict Litigation (hereinafter "JPML").

There are approximately 32 plaintiffs named in the Court of Federal Claims case who may reside or farm in a district other than the above seven districts. Those Plaintiff Peanut Farmers are coded in yellow. The districts in which they list mailing address, residence or farm are set forth in the **Exhibit 11**. (Again, the Government refuses to provide the exact location of the farms). Thus, there may be at least 32 plaintiffs and cases that must be transferred to the following new districts:

Middle District of Texas  
 Western District of Texas  
 Southern District of Texas  
 Southern District of Georgia  
 Southern District of Alabama

Plaintiff/Class Counsel respectfully request that this Court transfer the Plaintiffs' cases as set forth in **Exhibit 11** to the appropriate federal districts and thereafter that the JPML be notified that the cases are "tag along actions" pursuant to JPML Rule 5.2(b); and, accordingly, the cases should thereupon be transferred to the EDNC for further pretrial proceedings.<sup>3</sup>

In order to expedite this matter, Plaintiff/Class Counsel also respectfully request that this Court order Defendants to provide the information identified in **Exhibit 10** (the Court of Federal Claims Complaint listing all plaintiffs in this action) so that their cases can be transferred to the appropriate federal district court. The reason for this request is set forth below.

A number of issues arose in attempting to identify the information required by the Court. Usually, these matters are handled as matters incidental to Class Administration. However, the Government's position on jurisdiction and venue as well as its refusal to provide the databases on named plaintiffs make it more time consuming and require us to seek Court intervention. Examples of problems identifying the information requested by this Court include:

1. We have at least one address for each client. We cannot in the time allotted be certain if it is a mailing address, residence address, farm location, etc. Oftentimes, the residence and farm location are not the same. We have encountered several instances where the plaintiff farmer resided in another federal district, and even in other states, than the farm(s). Defendants could provide all this information in one computer print-out.
2. Our list may have a Plaintiff farmer's name listed one way, but then the Government's list has the farmer listed differently (either by first initial, etc.). At first glance, it looks like different people, when in actuality it turns out to be the same person. And *visa versa* – we may be overlooking some of our clients on the Government's list because the name does not appear to be exactly the same.

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<sup>3</sup> Although the Defendants repeatedly has said there are as many as 21 federal districts that might be affected, and Plaintiffs' counsel have relied upon those representations, the information we have reviewed indicates there may be as few as four new causes of action. However, there is a pending motion for national class action certification that is before Judge Howard (EDNC) which may resolve these jurisdiction/venue issues for these and additional similarly situated plaintiffs in other federal districts.

3. If our Client/ Plaintiff does not appear on the Defendants' lists provided to date, then we have to compare each individual client's county with the county listings in the district with pending cases versus the other districts in their state to see in what federal district they might belong. That leaves room for error. We are relying on the address the client gave us; we must look at hundreds of names on an Excel spreadsheet. We are having to track down the county listings for all the federal districts in the states we filed in (Some are online; others are not. We have had to call several clerk's offices to be sure).
4. We are requesting our clients send in documents related to the 2002 crop year if they are not on the Government's list. Some have indicated they may not have the records; others have stored records and it would take a substantial amount of time to locate them.

Public records, secured by a Protective Order, are readily available to be furnished by the Defendants. If the Government Defendants will provide a copy of its database which includes all Plaintiff farmers who filed a claim for crop year 2002, this process can be expedited. Plaintiffs/Class Counsel also request a telephone conference as soon as the information has been provided by the Government to discuss any other procedural issues relating to an orderly and efficient transfer of all cases. To the extent necessary, Plaintiffs' Counsel request additional time necessary to accomplish the appropriate identification of venue or jurisdiction over all named plaintiffs.

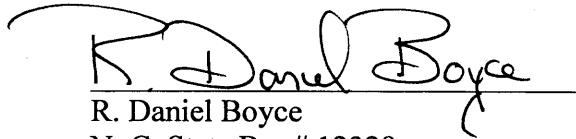
**Wherefore,** Plaintiffs respectfully request that this Honorable Court:

1. Order the transfer of Plaintiffs' cases as set forth in **Exhibit 11**;
2. Order that Defendants provide relevant information regarding the judicial district in which each Plaintiff's farm is located;
3. Order that a telephonic conference call be set after the information has been provided by the Government;

4. Order that the parties be provided reasonable and additional time as necessary to accomplish the appropriate identification of venue or jurisdiction over all named Plaintiffs; and
5. Any other Orders this Court deems just and proper.

This the 21<sup>st</sup> day of October, 2005.

**BOYCE & ISLEY, PLLC**

A handwritten signature in black ink, reading "R. Daniel Boyce", written over a horizontal line.

R. Daniel Boyce  
N. C. State Bar # 12329  
Post Office Box 1990  
Raleigh, NC 27602-1990  
Telephone: (919) 833-7373  
Facsimile: (919) 833-7536  
*Attorney for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on October 21, 2005, I caused to be served by United States mail, postage prepaid, copies of the foregoing *Notice of Named Plaintiffs Whose Cases Should Be Transferred and Motion to Compel the Production of Information to Assist in the Identification of the Transfer to the Appropriate Federal District Courts* addressed as follows:

The Honorable Margaret M. Earnest  
Clerk, U. S. Court of Federal Claims  
717 Madison Place, N.W.  
Washington, DC 20005-1011

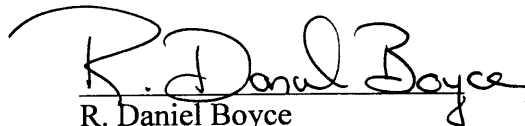
Clerk, US District Court  
Eastern District of North Carolina  
310 New Bern Avenue  
Federal Building, 5th Floor  
Raleigh, NC 27601

Eric Goulian  
Assistant United States Attorney  
310 New Bern Avenue  
Federal Building, Room 800  
Raleigh, North Carolina 27601-1461

Kent Porter  
Assistant U.S. Attorney  
8000 World Trade Center  
101 W. Main St.  
Norfolk, Virginia, 23510

Jane W. Vanneman  
Senior Trial Counsel  
Commercial Litigation Branch  
Department of Justice  
Attn: Classification Unit, 8th Fl.  
1100 L Street, NW  
Washington, DC 20530

BOYCE & ISLEY, PLLC



R. Daniel Boyce  
N. C. State Bar # 12329  
Post Office Box 1990  
Raleigh, NC 27602-1990  
Telephone: (919) 833-7373  
Facsimile: (919) 833-7536  
*Attorney for Plaintiffs*

LAWSUIT ON MULTIPLE PERIL INSURANCE POLICY

\_\_\_\_\_. Yes, I would like to participate in the lawsuit involving the breach of contract claim against the United States and other parties relating to my Multiple Peril Insurance Policy. I understand the Law Firm of Boyce & Isley, PLLC, will file a lawsuit to recover the difference in the expected insurance coverage (\$31 per pound) versus the \$.1775 per pound rate of insurance. I understand that I am responsible for \$1.00 per acre planted and insured peanuts and that the rest of the fee will be handled on a contingency fee basis. I understand no additional funds will be needed from me and that the attorneys will only collect in the event we win the lawsuit. I further understand that a copy of the attorney fee agreement will be mailed to me after I send in this form.

NAME: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
(Last) (First) (M)

MAILING ADDRESS:			
(Street/Post Office Box)			
(City)	(County)	(State)	(Zip Code)

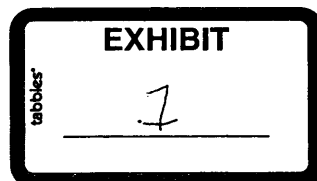
TELEPHONE NOS.	_____	(Home)
	_____	(Work)
	_____	(Cell)
	_____	(Fax)

Total Acres Planted and Insured (PEANUTS ONLY) for Crop Year 2002: \_\_\_\_\_ Acres  
x \$1.00 per Acre =  
Check Total: \$ \_\_\_\_\_

Make Check Payable to:	Boyce & Isley, PLLC
And Mail to:	R. Daniel Boyce Boyce & Isley, PLLC Post Office Box 1990 Raleigh, NC 27602-1990

Attention: PEANUT CASE

If you cannot attend any of the meetings mentioned in the enclosed memo and want to participate in the suit, please complete this form and send along with your check to the above address by September 30, 2002.





JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 26 2004

FILED  
CLERK'S OFFICE

**RELEASED FOR PUBLICATION**

**DOCKET NO. 1634**

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE PEANUT CROP INSURANCE LITIGATION**

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.  
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,  
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE  
PANEL**

**TRANSFER ORDER**

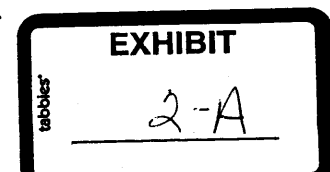
This litigation currently consists of seven actions listed on the attached Schedule A and pending, respectively, in the Middle District of Alabama, the Northern District of Florida, the Middle District of Georgia, the Eastern District of North Carolina, the District of South Carolina, the Eastern District of Texas, and the Eastern District of Virginia.<sup>1</sup> Plaintiffs in the seven actions move the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation in the Eastern District of North Carolina. The defendants in the actions, who are the United States, two United States Government officials, and three United States departments or agencies, oppose transfer. If the Panel determines to order transfer over their objections, then these defendants suggest that the Eastern District of Virginia would be an appropriate transferee district.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Eastern District of North Carolina will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiff peanut farmers in each action allege that common defendants on or after May 13, 2002, unlawfully and unilaterally imposed modifications to the Multiple Peril Crop Insurance Policy for Year 2002, which changed the plaintiff farmers' insurance coverage by reducing it from \$.31 to \$.1775 per pound of peanuts. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to jurisdictional and class certification matters), and conserve the resources of the parties, their counsel and the judiciary.

Objecting defendants have argued that Section 1407 transfer would circumvent the requirements of 7 U.S.C. § 1508 (j)(2)(a), which provides that actions on crop insurance claims may

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<sup>1</sup>The Section 1407 motion, as originally filed, also pertained to an additional action brought in the United States Court of Federal Claims. Movants subsequently withdrew this action from the list of actions encompassed by their motion in recognition of the fact that the action had been dismissed and was on appeal. Also, the Panel has been notified of one additional related action recently filed in the Middle District of Alabama. In light of the Panel's disposition of this docket, this action will be treated as a potential tag-along action. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).



- 2 -

be brought only in the district court for the district in which the insured farm is located. Opponents argue that because of this clear Congressional mandate that a federal court, in a particular district, possesses exclusive jurisdiction to entertain certain farmers' crop insurance claims, the Panel cannot or should not exercise its Section 1407 authority to transfer multiple such actions to a single district for coordinated or consolidated pretrial proceedings. We note, however, that in considering transfer under Section 1407, the Panel is not encumbered by considerations of venue. *In re Great Western Ranches Litigation*, 369 F.Supp. 1406, n.1 (J.P.M.L. 1974). An opposite conclusion would frustrate the essential purpose of Congress in enacting Section 1407 and providing for transfer of civil actions to "any district" by the Panel, namely, to permit centralization in one district of all pretrial proceedings when civil actions involving one or more common questions of fact are pending in different districts. *See In re Matter of New York City Municipal Securities Litigation*, 572 F.2d 49 (2<sup>nd</sup> Cir. 1978). We also note that any action transferred under Section 1407 for coordinated or consolidated pretrial proceedings that has not been terminated in the transferee district court will be remanded to its transferor district for trial. *See Rule 7.6, R.P.J.P.M.L.*, 199 F.R.D. 425, 436-38 (2001).

In concluding that the Eastern District of North Carolina is an appropriate forum for this docket, we note that the proceedings are furthest advanced in that district, which is also well equipped with the resources that this docket is likely to require.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Eastern District of North Carolina are transferred to the Eastern District of North Carolina and, with the consent of that court, assigned to the Honorable Malcolm J. Howard for coordinated or consolidated pretrial proceedings with the action pending in that district and listed on Schedule A.

FOR THE PANEL:



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Wm. Terrell Hodges  
Chairman

**SCHEDULE A**

MDL-1634 -- In re Peanut Crop Insurance Litigation

Middle District of Alabama

*Terry E. Beasley, et al. v. Ross J. Davidson, et al.*, C.A. No. 1:03-500

Northern District of Florida

*Florida Peanut Farmers, et al. v. Ross J. Davidson, et al.*, C.A. No. 5:03-107

Middle District of Georgia

*Georgia Peanut Farmers, et al. v. Ross J. Davidson, et al.*, C.A. No. 1:03-175

Eastern District of North Carolina

*Marvin Taylor Barnhill, et al. v. Ross J. Davidson, et al.*, C.A. No. 4:02-159

District of South Carolina

*Wallace A. Berry, et al. v. Ross J. Davidson, et al.*, C.A. No. 3:03-1631

Eastern District of Texas

*Texas Peanut Farmers, et al. v. Ross J. Davidson, et al.*, C.A. No. 2:03-120

Eastern District of Virginia

*Tom Clements, et al. v. Ross J. Davidson, et al.*, C.A. No. 2:03-352

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

NOV 19 2004

FILED  
CLERK'S OFFICE

DOCKET NO. 1634

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**  
**IN RE PEANUT CROP INSURANCE LITIGATION**

*Joey Watford v. Ross J. Davidson, et al.*, M.D. Alabama, C.A. No. 1:03-153

**CONDITIONAL TRANSFER ORDER (CTO-1)**

On October 26, 2004, the Panel transferred six civil actions to the United States District Court for the Eastern District of North Carolina for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. With the consent of that court, all such actions have been assigned to the Honorable Malcolm J. Howard.

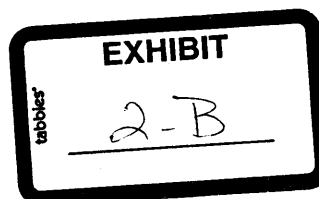
It appears that the action on this conditional transfer order involves questions of fact which are common to the actions previously transferred to the Eastern District of North Carolina and assigned to Judge Howard.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Eastern District of North Carolina for the reasons stated in the order of October 26, 2004, \_\_\_\_ F.Supp.2d \_\_\_\_ (J.P.M.L. 2004), and, with the consent of that court, assigned to the Honorable Malcolm J. Howard.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of North Carolina. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Michael J. Beck  
Michael J. Beck  
Clerk of the Panel



UNITED STATES DISTRICT COURT  
 RECEIVED MIDDLE DISTRICT OF ALABAMA  
 SOUTHERN DIVISION

2004 JAN -7 A 11:44

ALABAMA PEANUT FARMERS; )  
 TERRY E. BEASLEY; LLOYD D. BRYANT; )  
 ELAINE O. BRYANT; LARRY WOOD )  
 MARSHALL, HENRY ANDERSON, )  
 CHADWICK D. ARMSTRONG, DETHALIA J. )  
 ARMSTRONG, M. BRUCE BOSWELL, DANIEL )  
 B. CARAWAY, EUGENE COOK, SAMUEL )  
 CORBETT, LOUIE D. COURSON; HAROLD C. )  
 CURRIE; RONALD R. DAVIS; DAVID )  
 DONALDSON, WEDSEL D. DUNN, E. J. )  
 ELLENBURG; JACOB E. ELMORE, JAMES L. )  
 FALKNER, JR., JAMES L. FALKNER, )  
 SR., JOHNNY G. FOLEY, COFIELD FORTE; )  
 WILLIAM H. HAYES, JOHN C. HENRY, )  
 ROBERT A. HILSON, JACOB JERRY )  
 HORNSBY, STEVE INGRAM, JAMES TOYAL )  
 JACKSON, NOLAN L. LAIRD, LARRY )  
 LASSITER, WILLIE C. LAWRENCE, CHARLES )  
 E. McGRIFF; JAMES D. McKINNEY; JAMES )  
 R. NICHOLSON, EARL RODGERS, HENRY )  
 SIMMONS, EDWARD D. SMITH, JIMMY R. )  
 SORRELLS, MARTIN A. SUMBLIN, ANNE B. )  
 SUMBLIN, MARTIN A SUMBLIN, THOMAS )  
 J. TARPLEY, JR., CHARLES THOMAS, PERRY )  
 CLYDE THOMPSON, RICKIE TILLIS, OZIE B. )  
 TUBBS, STEPHEN C. TURMAN, LOUIS )  
 TYSON, STEVE E. WILLIAMS, and THERRELL )  
 WISE, and Others Similarly Situated, )

v. )

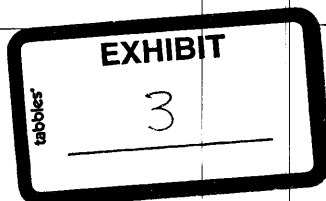
ROSS J. DAVIDSON, Administrator and Manager )  
 for RMA and FCIC, RISK MANAGEMENT )  
 AGENCY (RMA), FEDERAL CROP )  
 INSURANCE CORPORATION (FCIC) UNITED )  
 STATES OF AMERICA, ANN M. VENEMAN, )  
 Secretary of Agriculture for the United States of )  
 America, and UNITED STATES DEPARTMENT )  
 OF AGRICULTURE, )

Defendants. )

CLASS ACTION

AMENDED COMPLAINT FOR  
 DECLARATORY JUDGMENT  
 AND INJUNCTIVE RELIEF

CIVIL NO. # 03-T-0500-S



## I. INTRODUCTION

1. Plaintiffs are Alabama farmers in the "Southeast Growing Region" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who have applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Alabama who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the Multiple Peril Crop Insurance Policy which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U. S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiff Peanut Farmers further seek a preliminary injunction forbidding the Secretary of Agriculture or the Administrator of the RMA from illegally and unconstitutionally demanding that farmers waive their property right to the Multiple Peril Crop Insurance Policy as published in the Federal Register and Code of Federal Regulations or else have their peanut peril insurance coverage rejected or cancelled for the 2002 crop year and future years.

7. Plaintiffs previously filed Petitions with the United State Department of Agriculture complaining of Defendants' actions and seeking administrative relief. Plaintiffs previously filed a Complaint in the Federal Court of Claims seeking relief from the Defendants' actions. A similar suit was previously filed in the Eastern District of North Carolina. Plaintiffs are filing this Complaint to preserve their claims against any jurisdictional defense or similar defenses if raised against the Petitions and Complaints previously filed on behalf of these Plaintiffs and all other plaintiffs similarly situated.

## **II. PARTIES AND JURISDICTION**

8. Plaintiffs Henry Anderson, Eugene Cook and Charles E. McGriff are peanut farmers who farm and reside in Houston County, which is located in the Middle District of Alabama.

9. Plaintiffs Chadwick D. Armstrong, Dethala J. Armstrong, Terry E. Beasley, James L. Falkner, Jr., James L. Falkner, Sr., Larry Wood Marshall and Charles Thomas are peanut farmers who farm and reside in Henry County, which is located in the Middle District of Alabama.

10. Plaintiff Terry E. Beasley is a peanut farmer who farms and resides in Russell County, which is located in the Middle District of Alabama.

11. Plaintiffs M. Bruce Boswell, Lloyd D. Bryant, Elaine O. Bryant, Daniel B. Caraway, David Donaldson, Jacob Elmore, Robert A. Hilson, James Toyal Jackson, Nolan L. Laird and Rickie Tillis are peanut farmers who farm and reside in Covington County, which is located in the Middle District of Alabama.

12. Plaintiffs Samuel Corbett and Harold C. Currie are peanut farmers who farm and reside in Barbour County, which is located in the Middle District of Alabama.

13. Plaintiffs Louis D. Courson, Steve Ingram, Earl Rodgers and Henry Simmons are peanut farmers who farm and reside in Pike County, which is located in the Middle District of Alabama.

14. Plaintiffs Ronald R. Davis, E. J. Ellenburg, Willie C. Lawrence, James D. McKinney, James R. Nicholso, Edard D. Smith, Martin A. Sumblin, Anne B. Sumblin, Martin A. Sumblin, Thomas J. Tarpley, Jr., Ozie B. Tubbs, Stephen C. Turman and Therrell Wise are peanut farmers who farm and reside in Coffee County, which is located in the Middle District of Alabama.

15. Plaintiffs Wedsel D. Dunn, Jimmy R. Sorrells, Perry Clyde Thompson, Louis Tyson and Jacob Hornsby are peanut farmers who farm and reside in Geneva County, which is located in the Middle District of Alabama.

16. Plaintiffs William H. Hayes and John C. Henry are peanut farmers who farm and reside in Baldwin and Dallas Counties respectively, which are located in the Southern District of Alabama.

17. Defendant Ann M. Veneman, is Secretary of Agriculture for the United States of America.



18. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U. S. C. § 1505(d), and is also Administrator of the Risk Management Agency.

19. The Risk Management Agency (RMA) was established under provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Freedom to Farm Act), P.L. 104-127, approved April 4, 1996. It is an independent office within the United States Department of Agriculture responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and enforcement of programs authorized under the Federal Crop Insurance Act. (See 7 U. S. C. §§ 1501 *et seq.*).

20. The RMA Regional Office that serves Alabama is located in Valdosta, Georgia.

21. Defendants, including the United States of America and the United States Department of Agriculture (hereinafter the "Government,") through its right to contract with private citizens have waived sovereign immunity as a defense to the contract entered into by the parties and specifically waived its rights of sovereign immunity in the insurance contract.

22. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.") This action arises under the Federal Crop Insurance Act, 7 U.S.C. §§ 1501, *et seq.*, and the Constitution of the United States.

23. The Plaintiffs' cause of action is created by the judicial review provisions of the Administrative Procedures Act, 5 U.S.C. § 702-706.

24. To date, Plaintiff Peanut Farmers complied with all terms and conditions of the insurance contract as required by Paragraph 25 of the Multiple Peril Crop Insurance Policy.

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FILED

FEB 7 2003

JOEY WATFORD and all OTHERS  
SIMILARLY SITUATED,

Plaintiffs,

vs.

ROSS J. DAVIDSON,  
ADMINISTRATOR FOR RISK  
MANAGEMENT AGENCY, RISK  
MANAGEMENT AGENCY,  
UNITED STATES OF AMERICA,  
ANN M. VENEMAN, SECRETARY  
OF AGRICULTURE FOR THE  
UNITED STATES OF AMERICA,  
and UNITED STATES  
DEPARTMENT OF  
AGRICULTURE,

Defendants.

CLERK  
U. S. DISTRICT COURT  
MIDDLE DIST. OF ALA.

COMPLAINT FOR  
DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF

CIVIL ACTION NO. 03-M-153-S

RECEIVED  
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CLERK  
U. S. DISTRICT COURT  
MIDDLE DISTRICT ALA.

I. INTRODUCTION

1. Plaintiffs are Alabama farmers in the "Alabama-Georgia-Florida peanut growing region" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who had applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Alabama who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13,

EXHIBIT

3-B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION  
FILE No. 5: 03 CV 107 SPM

**FLORDIA PEANUT FARMERS:** JAMES C. )  
BARNES; J. L. BEAUCHAMP, JR., PRESTON )  
W. BLACKMON, JOSPEH M. DIAMOND, )  
JOSEPH C.DITTY, ALAN J. EDWARDS, )  
KENNETH M. EVERETT, ROLAND C. FLOYD, )  
R. D. GREGGS, WYMAN L. JONES, DONNIE )  
FRANK LOWRY, MILTON M. MOONEYHAM, )  
JR., FRANKLIN R. PETERSON, and OTHERS )  
SIMILARLY SITUATED, )

Plaintiffs )

v. )

ROSS J. DAVIDSON, ADMINISTRATOR FOR )  
RISK MANAGEMENT AGENCY, RISK )  
MANAGEMENT AGENCY, UNITED STATES )  
OF AMERICA, ANN M.VENEMAN, )  
SECRETARY OF AGRICULTURE FOR THE )  
UNITED STATES OF AMERICA and UNITED )  
STATES DEPARTMENT OF AGRICULTURE, )

Defendants. )

COMPLAINT FOR  
DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF

OFFICE CLERK  
U.S. DISTRICT CT.  
NORTHERN DIST. FLA.  
PANAMA CITY, FLA.

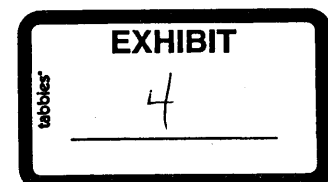
JULY -9 PM 3:31

**I. INTRODUCTION**

1. Plaintiffs are Florida farmers in the Southeast Growing Area (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who have applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Florida who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the



Multiple Peril Crop Insurance Policy which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U. S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiff Peanut Farmers further seek a preliminary injunction forbidding the Secretary of Agriculture or the Administrator of the RMA from illegally and unconstitutionally demanding that farmers waive their property right to the Multiple Peril Crop Insurance Policy as published in the Federal Register and Code of Federal Regulations or else have their peanut peril insurance coverage rejected or cancelled for the 2002 crop year and future years.

7. Plaintiffs previously filed Petitions with the United State Department of Agriculture complaining of Defendants' actions and seeking administrative relief. Plaintiffs previously filed a Complaint in the Federal Court of Claims seeking relief from the Defendants' actions. A similar suit was previously filed in the Eastern District of North Carolina. Plaintiffs are filing this Complaint to preserve their claims against any jurisdictional defense or similar

defenses if raised against the Petitions and Complaints previously filed on behalf of these Plaintiffs and all other plaintiffs similarly situated.

## II. PARTIES AND JURISDICTION

8. Plaintiffs James C. Barnes, J. L. Beauchamp, Jr., Joseph C. Ditty, Kenneth Everett, Milton M. Mooneyham, Jr. and Franklin R. Peterson are peanut farmers who farm and reside in Jackson County, Florida.

9. Plaintiffs Preston W. Blackmon, Joseph M. Diamond, Alan J. Edwards, Roland C. Floyd, Wyman L. Jones and Donnie Frank Lowry are peanut farmers who farm and reside in Santa Rosa County, Florida.

10. Plaintiff R. D. Gregg is a peanut farmer who farms and resides in Walton County, Florida.

11. Defendant Ann M. Veneman, is Secretary of Agriculture for the United States of America.

12. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U. S. C. § 1505(d), and is also Administrator of the Risk Management Agency.

13. The Risk Management Agency (RMA) was established under provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Freedom to Farm Act), P.L. 104-127, approved April 4, 1996. It is an independent office within the United States Department of Agriculture responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and enforcement of programs authorized under the Federal Crop Insurance Act. (See 7 U. S. C. §§ 1501 *et seq.*).

14. The RMA Regional Office that serves Florida is located in Valdosta, Georgia.

15. Defendants, including the United States of America and the United States Department of Agriculture (hereinafter the "Government,") through its right to contract with private citizens have waived sovereign immunity as a defense to the contract entered into by the parties and specifically waived its rights of sovereign immunity in the insurance contract.

16. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.") This action arises under the Federal Crop Insurance Act, 7 U.S.C. §§ 1501, *et seq.*, and the Constitution of the United States.

17. The Plaintiffs' cause of action is created by the judicial review provisions of the Administrative Procedures Act, 5 U.S.C. § 702-706.

18. To date, Plaintiff Peanut Farmers complied with all terms and conditions of the insurance contract as required by Paragraph 25 of the Multiple Peril Crop Insurance Policy.

19. For Plaintiff Peanut Farmers to make individual administrative claims would be an effort in futility in that Plaintiff Peanut Farmers have been advised by Defendants that the Defendants lowered the rates of insurance coverage from \$.31 per pound to \$.1775 per pound for all claims under the peanut provisions of the Multiple Peril Crop Insurance Policy. Furthermore, time is of the essence in that the Plaintiffs' crops are now being harvested and farmers must pay their obligations for loans, interest on loans, seed, fertilizer, labor, equipment, etc. in a timely fashion in order to avoid bankruptcy or legal actions by third-party contractors against Plaintiff Peanut Farmers.

**PER LOCAL RULE 5.1(J), PLEASE ADD THE THREE-INITIAL SUFFIX WHICH WILL IDENTIFY THE DISTRICT JUDGE TO WHOM THE CASE IS ASSIGNED.**

FILED IN CLERK'S OFFICE

ATLANTA DIVISION  
FILE No. 1:03-CV-1263

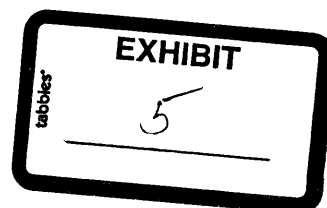
**CAP**

By:

*wh*

Deputy Clerk

GEORGIA PEANUT FARMERS: )  
BRADFORD L. CARROLL; EDWIN CLARK; )  
MICHAEL H. COBB; WALTER L. DAVENPORT;) )  
TREY HAMILTON DUNAWAY; JOHN L. )  
EUBANKS; ERIC S. GIBBS; JOSEPH GWINES; )  
ROBIN GWINES; DANNY W. HAWKINS; )  
STEVE E. HOUSTON; CHARLES L. ISRAEL; )  
JUSTIN ISRAEL JOHNSON; WILLIAM G. )  
JONES; LARRY JONES; SHERWOOD T. KING;) )  
ROBERT A. LANCASTER; JIMMY M. )  
McCLURE; ANN G. McCLURE; ROYCE )  
McCRARY; TIMOTHY E. McMILLAN; )  
MARVIN MOSS; CLIFFORD L. OLIVER; )  
WILLIE J. PROTHO; BILLY SENKBEIL; DAN )  
W. SMITH; CHARLES E. SMITH, JR.; EUGENE )  
WILLIAMS; AUBRY ALDRICH; LESLIE W. )  
ANDERSON; IVERSON ANDERSON, JR.; )  
MARVIN C. BELFLOWER, JR.; MICHAEL M. )  
BLAND; PEGGY D. BLEDSOE; SAMUEL )  
BRYANT BLEDSOE; SIDNEY S. BLEDSOE, JR.; )  
EDWARD J. BLITCH; JESSIE BRAKIN; )  
MARION GENE BRANTLEY; TERRY L. )  
BROWN; BILLY M. BURCH; JAMES EDWIN )  
BURNHAM; JERALD L. CARTER; RALPH H. )  
CAVENDAER; J. B. CLARK; DAVID COLLINS, )  
JR.; JOHN MARK COODY; NORRIS )  
COPELAND; WALTER L. DAVENPORT; )  
SAMUEL RICHARD DOSTER; STEVE R. )  
DOSTER; WALTER S. DRIVER; SAUNDRA )  
FEDD; S. T. FEDD; HUBERT FLONNORY, JR.; )  
REUBEN W. FRASIER; EUGENE W. GIBBS; )  
CARROL R. GIDDENS; NATHANIEL LEW )  
BLENN; CHARLES RUSSELL GOODMAN; )  
GEORGE C. GRIFFS; W. C. (BILLY) GRIGGS, )  
III; W. C. GRIGGS, IV; JEFFERY S. HAIRE; )





IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION  
FILE No. 1:03-CV-1263

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GEORGIA PEANUT FARMERS: )  
BRADFORD L. CARROLL; EDWIN CLARK; )  
MICHAEL H. COBB; WALTER L. DAVENPORT;) )  
TREY HAMILTON DUNAWAY; JOHN L. )  
EUBANKS; ERIC S. GIBBS; JOSEPH GWINES; )  
ROBIN GWINES; DANNY W. HAWKINS; )  
STEVE E. HOUSTON; CHARLES L. ISRAEL; )  
JUSTIN ISRAEL JOHNSON; WILLIAM G. )  
JONES; LARRY JONES; SHERWOOD T. KING;) )  
ROBERT A. LANCASTER; JIMMY M. )  
McCLURE; ANN G. McCLURE; ROYCE )  
McCRARY; TIMOTHY E. McMILLAN; )  
MARVIN MOSS; CLIFFORD L. OLIVER; )  
WILLIE J. PROTHO; BILLY SENKBEIL; DAN )  
W. SMITH; CHARLES E. SMITH, JR.; EUGENE )  
WILLIAMS; AUBRY ALDRICH; LESLIE W. )  
ANDERSON; IVERSON ANDERSON, JR.; )  
MARVIN C. BELFLOWER, JR.; MICHAEL M. )  
BLAND; PEGGY D. BLEDSOE; SAMUEL )  
BRYANT BLEDSOE; SIDNEY S. BLEDSOE, JR.; )  
EDWARD J. BLITCH; JESSIE BRAKIN; )  
MARION GENE BRANTLEY; TERRY L. )  
BROWN; BILLY M. BURCH; JAMES EDWIN )  
BURNHAM; JERALD L. CARTER; RALPH H. )  
CAVENDAER; J. B. CLARK; DAVID COLLINS, )  
JR.; JOHN MARK COODY; NORRIS )  
COPELAND; WALTER L. DAVENPORT; )  
SAMUEL RICHARD DOSTER; STEVE R. )  
DOSTER; WALTER S. DRIVER; SAUNDRA )  
FEDD; S. T. FEDD; HUBERT FLONNORY, JR.; )  
REUBEN W. FRASIER; EUGENE W. GIBBS; )  
CARROL R. GIDDENS; NATHANIEL LEW )  
BLENN; CHARLES RUSSELL GOODMAN; )  
GEORGE C. GRIFFS; W. C. (BILLY) GRIGGS, )  
III; W. C. GRIGGS, IV; JEFFERY S. HAIRE; )



MILTON LEE HALL, JR.; DAVID B. )  
 HARRISON; BENNIE HARRISON; WARREN )  
 HODGES; GLADIS HOLMES; ANDRICO S. )  
 HOLMES; ERIC HOPKINS; RAY HUNTER, JR.; )  
 HERBERT J. JOHNSON; RAYBURN G. )  
 JOHNSON; ROBERT LESTER JONES; ELIX )  
 HOUSTON JONES; BEEMAN C. KEEN, JR.; )  
 ANN W. KENDRICK; MIKE BRADY LAMB; )  
 THOMAS R. LANCASTER; ROBERT JERRY )  
 LANCASTER, SR.; WILLIAM J. LANE; )  
 WILLIAM LOWERY; LESTER MACK; )  
 HOWARD K. MCDANIEL; ALFRED )  
 MCDONALD; FLOYD LEROY MCELMURRAY; )  
 PAT S. MEDLOCK; WINFORD MOBLEY; )  
 DERMAT MATTHEWS MORTON; SARA J. )  
 NELSON; ROBERT D. ORR; HERBERT RICKY )  
 PARTIN; RONALD HUGH PAULK; KENNETH )  
 A. PEEK, SR.; WALTER E. PRESOTT; FRED E. )  
 PURVIS; LARRY J. RAYBON; JANICE B. )  
 REGISTER; WARD SHUMAN; MARY V. )  
 SINGETARY; LOUIS T. SMITH; CLYDE )  
 STANLEY; THOMAS E. STEPPHENS, III; )  
 LARRY J. STONE; J. B. TABB; JIM R. )  
 THOMPSON; AMOS TOOKES, JR.; STINSON )  
 A. TROUTMAN; CLIFFORD M. WALKER, JR.; )  
 EDWARD E. WATSON; HORACE H. )  
 WEATHERSBY, III; ROBERT E. WILLIAMS; )  
 ALBERT WILLIAMS, JR.; GRIGGS FARMS )  
 AND OTHERS SIMILARY SITUATED, )

Plaintiffs, )

v. )

ROSS J. DAVIDSON, ADMINISTRATOR FOR )  
 RISK MANAGEMENT AGENCY, RISK )  
 MANAGEMENT AGENCY, UNITED STATES )  
 OF AMERICA, ANN M. VENEMAN, )  
 SECRETARY OF AGRICULTURE FOR THE )  
 UNITED STATES OF AMERICA and UNITED )  
 STATES DEPARTMENT OF AGRICULTURE, )

Defendants. )

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
FILE No. 4:02-CV-159-H(4)

FILED

JAN 22 2005

DAVID W. DANIEL, CLERK  
US DISTRICT COURT EDNC  
BY                      DEPT. CLERK

MARVIN TAYLOR BARNHILL, JERRY )  
HAMILL, JOHN BRANHAM, CLARK )  
JENKINS, TOM CLEMENTS, DAVID GRANT, )  
TIM PHELPS, TOMMY FLYTHE, JIM )  
FERGUSON, GLEN HAWKINS, BILLY BAIN, )  
GLEN MOORE, R. L. SMITH, H. STEVEN )  
ALLEN and OTHERS SIMILARLY SITUATED, )

Plaintiffs, )

vs. )

ROSS J. DAVIDSON, ADMINISTRATOR FOR )  
RISK MANAGEMENT AGENCY, RISK )  
MANAGEMENT AGENCY, UNITED STATES )  
OF AMERICA, ANN M. VENEMAN, )  
SECRETARY OF AGRICULTURE FOR THE )  
UNITED STATES OF AMERICA, and UNITED )  
STATES DEPARTMENT OF AGRICULTURE, )

Defendants. )

**SECOND MOTION TO JOIN  
ADDITIONAL PARTIES  
(Rules 17 and 20 F.R. Civ.P.)**

NOW COMES undersigned counsel in the above-captioned case, pursuant to Rules 17 and 20 of Federal Rules of Civil Procedure, and hereby move that this honorable Court allow additional plaintiffs to become parties to this lawsuit. In support of this motion, plaintiffs show the Court as follows:

1. Plaintiffs filed this action as a class action on behalf of fourteen (14) plaintiffs and others similarly situated.
2. Thereafter, plaintiffs filed the first "Motion to Join Additional Plaintiffs" adding an additional 388 plaintiffs, for a total of 402.

EXHIBIT

tabbies

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3. Plaintiffs have requested that this case be identified as a class action lawsuit, but have not filed a motion for certification.

4. The defendants have answered, have not opposed the first Motion to Join Additional Parties and apparently have taken no position on class certification or joinder and therefore, are not harmed in any way by the joinder of additional plaintiffs.

5. Subsequent to filing the lawsuit, an additional 45 clients have requested representation in this matter.

6. These potential plaintiffs are in the same class of plaintiffs in that they are seeking a declaratory judgment that they are entitled to insurance coverage at a maximum rate of \$.31 per pound rather than the \$.1775 per pound and thereby prohibiting the Department of Agriculture, Risk Management Agency, and other governmental agencies or other entities from restricting coverage to \$.1775 per pound.

7. The insurance policies for each of the new potential plaintiff peanut farmers are the same. As stated in recent correspondence from an insurance provider, "The Multiple Peril Crop Insurance Program is designed to afford identical services to all producers purchasing this type of crop insurance. All companies reinsured by FCIC are required to use the same policy language, rates, rules, and regulations as outlined and provided by FCIC/RMA."

8. An alphabetized new list of approximately 447 potential plaintiffs from North Carolina, Virginia, and South Carolina<sup>1</sup> is attached hereto as Exhibit A.

9. AUSA Norman Acker, who was acting on behalf of AUSA Rudy Renfer, advised undersigned counsel that Defendants do not take a position on the Second Motion for Joinder at

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<sup>1</sup> No farmers from South Carolina were named in the original complaint. However, South Carolina farmers are in the Virginia-Carolina farming region and is monitored by Defendant Risk Management Agency which has its regional office in Raleigh, North Carolina (in the Eastern District of North Carolina.) Subsequent to the filing of the complaint, it has been determined that South Carolina also has suffered significant adverse weather conditions. To date, it is believed by undersigned counsel that there has not been significant publicity or notice to potential claimants in South Carolina. However, upon information and belief, it is anticipated that additional South Carolina peanut farmers will request participation in this lawsuit.

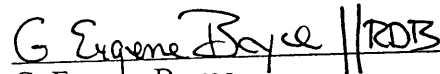
this time and do not intend to file a response to the motion. However, the Defendants reserve the right to contest individual joinder in the future.

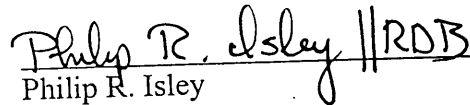
WHEREFORE, the Plaintiffs respectfully request that this honorable Court allow additional plaintiffs as set forth in Exhibit be joined in this lawsuit.

This the 22<sup>nd</sup> day of January, 2003.

**BOYCE & ISLEY, PLLC**

  
R. Daniel Boyce  
N. C. State Bar # 12529

  
G. Eugene Boyce  
N. C. State Bar # 0435

  
Philip R. Isley  
N. C. State Bar # 19094

Post Office Box 1990  
Raleigh, North Carolina 27602-1990  
Telephone: (919) 833-7373  
Facsimile: (919) 833-7536  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**


The undersigned attorney hereby certifies that on this day a copy of the foregoing *Second Motion to Join Additional Plaintiffs* was served upon counsel of record in this action by depositing a copy thereof in the United States mail, postage prepaid, and addressed as follows:

Rudy Renfer  
Assistant United States Attorney  
Suite 800, Federal Building  
310 New Bern Avenue  
Raleigh, NC 27601-1464

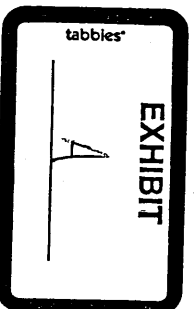
Ann M. Veneman  
U. S. Secretary of Agriculture  
200-A Whitten Building  
1400 Independence Ave., SW  
Washington, DC 20250

Ross J. Davidson, Administrator  
Risk Management Agency  
1400 Independence Avenue, SW  
Stop 0801  
Washington, DC 20250-0805

This 22<sup>nd</sup> day of January, 2003.

  
\_\_\_\_\_  
R. Daniel Boyce  
Attorney for Plaintiffs

TITLE	LAST	FIRST	M.I.	FARM	STATE
Mr.	& Son, Inc.	GP	Earley		NC
Mr.	Anderson, Jr.	Walter	W		NC
Mr.	Askew	Paul	C		NC
Mr.	Askew	John	K		NC
Mr.	Aycock	David	Wayne		NC
Mr.	Baird	Leon	T		NC
Mr.	Barnes	Donald	E		NC
Mr.	Barnes	Bennie	C		NC
Mr.	Barnes	Stanley	H		NC
Ms.	Barnes Family	Elizabeth	Prince		NC
Mr.	Barnhill	Marvin	Taylor		NC
Mr.	Barrett	Benford	L		NC
Mr.	Batten	Jerry	W		NC
Mr.	Belch	Michael	E		NC
Mr.	Bennett	Milton	E		NC
Mr.	Bennett	Tony	R		NC
Ms.	Billy Drewette	Sandra Flythe	D	Drewette & Flythe Farms	NC
Mr.	Blanton	Estelle	Edwards	C.C. Edwards Farms, Inc.	NC
Mr.	Blythe	Jimmy	G		NC
Mr.	Boone	Terry	C	T & B Farms, LLC	NC
Mr.	Boseman	Jean	J		NC
Mr.	Boseman	Joel	M		NC
Mr.	Boseman	Wayne			NC
Mr.	Boseman	Mark			NC
Mr.	Braddy	Chris	A		NC
Mr.	Braddy	Timothy	R		NC
Mr.	Bradley, Jr.	James	Arthur		NC
Mr.	Branham, IV	John	W		NC
Mr.	Bridgers	Clemmon	W		NC
Mr.	Bridgers	Gary	B		NC
Ms.	Bridgers	Sadie	V.		NC
Mr.	Britt, Sr.	Keith	F		NC
Mr.	Britton	David	W		NC
Mr.	Britton	Andrew	J		NC
Mr.	Brown	Josiah	B		NC
Mr.	Brown	Thomas	E		NC
Mr.	Brown	Robert	T		NC
Mr.	Brown	Berry	Robert		NC
Mr.	Brown, III	Edward	Merrion		NC
Mr.	Browning	Bobby	Joe		NC
Mr.	Bunch	Jesse	L		NC
Ms.	Burg	Lori	S		NC



Mr.	Burgess	Neil	B		NC
Mr.	Byrum	Robert	Earl		NC
Mr.	Byrum, Jr.	Tommy	Daniel		NC
Mr.	Byrum, Sr.	Tommy	D		NC
Mr.	Champion	James	L		NC
Mr.	Clark Farms	WS			NC
Mr.	Clary	Allen	D		NC
Mr.	Corey	Mike	W		NC
Mr.	Council	Loumus			NC
Mr.	Council	Charlie	Lee		NC
Mr.	Council	Harvey	S		NC
Mr.	Cowin	Ben	E		NC
Mr.	Crawley	Bobby	S		NC
Mr.	Critzer	Joy	A		NC
Mr.	Cumbo	Jeffrey	J		NC
Mr.	Dail, Jr.	Jack	Mack		NC
Mr.	Davis	Kelly	A		NC
Mr.	Davis	Michael	Mack		NC
Mr.	Davis	Anderson	D		NC
Mr.	Davis	Joey	S		NC
Mr.	Davis	Hallet	V		NC
Mr.	Davis	Phillip	L		NC
Mr.	Davis	Thomas	P		NC
Mr.	Davis, III	Grady	A		NC
Mr.	Dickens	Lawrence	N		NC
Mr.	Dickens	Allen	Lee		NC
Mr.	Dickens	Aubrey			NC
Mr.	Dickens	Edward	L		NC
Mr.	Dickens, III	Jacob	L		NC
Mr.	Dickens, Jr.	Jacob	W		NC
Ms.	Drewett	Barbara	S		NC
Mr.	Duncan	Conwell			NC
Mr.	Dunlow	David	R		NC
Mr.	Earley, Sr.	James	R		NC
Mr.	Eason	Calvin	Wayne		NC
Mr.	Edwards	Leonard	B		NC
Mr.	Edwards	Patrick	D		NC
Mr.	Edwards	Robert	T		NC
Ms.	Edwards	Rose	Scott		NC
Mr.	Edwards	Stephen	Hugh		NC
Mr.	Edwards	Keith			NC
Mr.	Edwards	Scott	S		NC
Mr.	Eley	James	Lee		NC
Mr.	Eub	Bobby			NC

Davis Farm

Taylor and Earley

Edwards Farms, Inc.

Owner	Shareholder	Company Name
Farm Partnership	Myrick	
Farms	Beech Run	
Farms	Barnes	
Farms	Futrell	
Farms, Inc.	Star Valley	
Farms, Inc.	Sumner	
Feher	Richard	
Fisher	Jim	
Flye	Bruce	
Flythe	Bryan	
Flythe, Jr.	M.	
Flythe, Jr.	James	
Flythe, Sr.	James	
Francis	George	
Futrell, Jr.	William	
Gardner, Jr.	Robert	
Gardner, Sr.	Robert	
Garner	Raymond	
Garner	RP & EC	
Garner	Edward	
Garner, Jr.	Raymond	
Garris	Thomas	
Garriss	Stanley	
Gay, Jr.	Robert	
Gibson	Robin	
Godwin	Norman	
Goins	Winslow	
Grant	David	
Grimes	Rickie	
Hamill	Jerry	
Hamill, Jr.	Sam	
Hargrave, Jr.	J	
Hargrave, Sr.	John	
Harris	Tommy	
Harris	James	
Harris	Willis	
Harris Farms, Inc.	W	
Hawkins, Jr.	Harvey	
Hayes	Donald	
Hedgepath	James	
Hedgepath	Michael	
Hedgepath, Jr.	James	
Hendicks	Patricia	
How, II	Mason	



Mr.	Howser	Edward	J	E. J. Farms	NC
Ms.	Hubert	Sorie			NC
Mr.	Hughson	Allen	Keith	Hughson Farms, Inc.	NC
Mr.	Hughson	Anthony	Brian		FL
Ms.	James	Blair	M		NC
Ms.	James	Blair	M		NC
Mr.	Johnson	Joseph	L		NC
Mr.	Johnston	Todd			NC
Mr.	Jones	William	A		NC
Mr.	Jones, Jr.	Lloyd	W		NC
Mr.	Jordan	Edward	S		NC
Mr.	Joyner	Vernon	W		NC
Mr.	Keel	Michael	Henry		NC
Mr.	Killebnew	Claten	P	JRK Farms, PTRS.	NC
Mr.	Kitchin	James	K		NC
Mr.	Langley	David	R		NC
Mr.	Lassiter	Bobby	L		NC
Mr.	Lassiter	Worth	E		NC
Mr.	Lassiter, III	Rolo	T		NC
Mr.	Lawrence	Charlie	Clinton		NC
Mr.	Lee	Robert	E		NC
Mr.	Leggett	Robert	R		NC
Mr.	Lewis	Thomas	A	Lewis Brothers Farms	NC
Mr.	Lewis	Thomas	A	Union Sand & Gravel, Inc.	NC
Mr.	Liles	Willis	E		NC
Mr.	Liverman	Richard	O		NC
Mr.	Liverman	Rupert	E		NC
Mr.	Locke	John	R	C. W. Locke and Sons, Inc.	NC
Mr.	Long	Derreck	J		NC
Mr.	Mann	Larry	W	Mann Farms	NC
Mr.	Mann	Ray		Arman, Inc.	NC
Mr.	Manning, Jr.	Roland	K		NC
Mr.	Martin	Joseph	H		NC
Ms.	Matthews	Pauline	H		NC
Ms.	Matthews	Emma	L		NC
Mr.	McGhee	George	Hinton		NC
Mr.	Medford	Kenneth	R	R.E. Miller Jr. & Sons Inc.	NC
Mr.	Miller	George	Mac		NC
Mr.	Mizelle	Jimmy	Revel		NC
Mr.	Mobley	Clayton			NC
Mr.	Morgan	Richard	H	Cypress Glade Farms	NC
Mr.	Morris	Bernard	M		NC
Mr.	Morris	Bernard	F		NC
Mr.	New	Waller	R		NC

Mr. Norris	Carl	D			NC
Mr. Outland, Jr.	Felton	J			NC
Mr. Parker	William	E			NC
Mr. Parker	Alton	H			NC
Parker Trust	Elizabeth	S			NC
Parker Trust	E	W			NC
Mr. Pat	Taylor				NC
Mr. Peele	J	Slade			NC
Mr. Peele, Jr.	Robert	Hodges			NC
Mr. Pendleton, III	George	Edmund	G. E. Pendleton, III Farms, Inc.		NC
Mr. Pendleton, IV	George	Edmund	G. E. Pendleton, III Farms, Inc.		NC
Mr. Phelps	Tim	W			NC
Mr. Phillips	Frank	P			NC
Mr. Phillips	Burt	T			NC
Mr. Pope	Thomas		Davis Farm		NC
Mr. Powell	Johnny				NC
Mr. Puryear III	Leonard	Thomas			NC
Mr. Reid	Edwin	Willis			NC
Mr. Revell	Danny	M			NC
Ms. Revell Estate	Pearla	F			NC
Mr. Rhodes, III	Vernon	L			NC
Mr. Ricks	Phillip	E	Ashriel Farms		NC
Mr. Ricks	Lemuel	C			NC
Mr. Ricks	Braxton	C			NC
Mr. Ricks	Henry	R			NC
Mr. Ricks	Elliott	L	Ashriel Farms		NC
Mr. Riddick	Sidney	R			NC
Mr. Riddick	Fred	N			NC
Mr. Riddick	Jason	V			NC
Mr. Riddick, Jr.	Fred	N			NC
Mr. Roberson, III	John	D			NC
Mr. Rogers	John	M			NC
Ms. Rogerson	Diane	B			NC
Mr. Rogerson	James	David			NC
Mr. Rose, Jr.	Joseph	H			NC
Mr. Ross	Mark	Whitley			NC
Mr. Rountree	Forrest	H			NC
Mr. Simmons	Joseph	B			NC
Mr. Simpson	Joe	W			NC
Mr. Singletary	Joseph	D			NC
Mr. Skinner	Ronnie	Earl			NC
Mr. Smith	James	R			NC
Mr. Smoak	Bobby				NC
Mr. Sotir	Hubert				NC

Mr.	Spruill	Dennis	O			NC
Mr.	Spruill	Denton	O			NC
Mr.	Stephenson	James	E			NC
Mr.	Stephenson	Thomas	W			NC
Mr.	Stephenson Farms	W	Harry			NC
Mr.	Stephenson, Jr.	Charles	J		J.L. Storey & Son Inc.	NC
Mr.	Storey	Ronnie	Lewis			NC
Ms.	Storey Estate	Ruth	M			NC
Mr.	Story	Edward	S			NC
Mr.	Sumner	Ted	M			NC
Mr.	Supply, Inc.	Woodville				NC
Mr.	Sykes	John	Samuel		B.R. & S.K. Taylor Farms, Inc.	NC
Mr.	Taylor	Bobby	R			NC
Mr.	Taylor	Bobby	H			NC
Mr.	Taylor	Daniel				NC
Mr.	Taylor	Bobby & Sammy	S			NC
Mr.	Taylor	Michael	F			NC
Ms.	Taylor	Coleman				NC
Mr.	Taylor	Martina				NC
Mr.	Taylor	Pat				NC
Mr.	Thompson	Archie	Thornton			NC
Mr.	Trust	G.E.	Gibbs			NC
Mr.	Tudor	Albert	R		Sam Turner & Company	NC
Mr.	Turner	Sam	C			NC
Mr.	Turner	Bill				NC
Mr.	Turner	Michael	Wayne			NC
Mr.	Umphlett, Jr.	Robert	L			NC
Mr.	Vann	Kelly				NC
Ms.	Vann Heirs	Josephine				NC
Mr.	Vincent	Hugh	C			NC
Mr.	Ward	Barbara	J			NC
Ms.	Warren	Martha	D			NC
Mr.	Weinstein	Nanci	Ward		D. & B. Farms	NC
Mr.	White	Donald	W		White Farms, Inc.	NC
Mr.	White, III	Rufus	J			NC
Mr.	Whitehead	Joey	G			NC
Mr.	Whitehurst	William	A			NC
Mr.	Whitley	Richard	O			NC
Mr.	Whitley	Richard	O			NC
Mr.	Wilkins	Frank	E			NC
Ms.	Williamson	Dorothy	C			NC
Mr.	Winslow, Jr.	Zeb	W			NC
Mr.	Winslow, Jr.	Aloner	Thomas			NC
Mr.	Wojnar	George	A			NC
Mr.	Wojnar	Myrid	B			NC

W.F.

Woodard, Jr.

John

H

Watson & Johnson Farms, LLP

NC  
NC

TITLE	LAST	FIRST	M.I.	FARM NAME	STATE
Mr.	Abernathy	James	D		VA
Ms.	Allen	Pauline	W		VA
Mr.	Allen	Joseph	Michael		VA
Mr.	Allen	Henry	Stephen		VA
Mr.	Allen	Ronnie	L		VA
Mr.	Allen	Sherman	F		VA
Mr.	Allen	Gilbert	Earl		VA
Mr.	Allen, Sr.	Cecil	W		VA
Mr.	Appel, Jr.	John	F	Gum Corner Farms	VA
Mr.	Bain	William	B		VA
Mr.	Bain	Warren	C	Bain Plantations, Inc.	VA
Mr.	Barlow	Joseph	H	Cotton Plains Farms, Inc.	VA
Mr.	Barnes	Harvey	M		VA
Mr.	Barnes	Richard	R		VA
Mr.	Barnes	Charles	R		VA
Ms.	Barnes	Francis	W		VA
Mr.	Barnes	Wayne	C		VA
Mr.	Berryman	E	McDonald	Beechland Farms, Inc.	VA
Mr.	Blaha	Alvin	W	Laurel Farms Inc.	VA
Mr.	Blount	Theron	H		VA
Mr.	Bresko, Jr.	Alex	W		VA
Mr.	Brna	Johnny	L		VA
Ms.	Brna	Rosa	B		VA
Mr.	Brna	Joe	R		VA
Mr.	Brock, Jr.	John	M		VA
Mr.	Brothers	Griffin	M		VA
Mr.	Brown	Lawrence	W	Brown Farms	VA
Mr.	Bryant	Rosser	E	Sleepy Hollow Farms	VA
Mr.	Bryant, Jr.	Raymond	E	Bryant Farms	VA
Mr.	Bulls	James	A		VA
Mr.	Byrum	Cecil	R	Cecil R. Byrum Farms, Inc.	VA
Mr.	Chappell, Jr.	William		Chappell Farms LLC	VA
Mr.	Clark	Ray		Clark Farms LLC	VA
Mr.	Claud	John	M		VA
Mr.	Clements	Tom	M	Walnut Tree Farm	VA
Mr.	Clements	Jeffrey	E		VA
Mr.	Cobb	Robert	C		VA
Ms.	Cobb	Catherine	B	Cobb's Farm	VA
Mr.	Cobb	Jessie	T		VA
Mr.	Collier	Roger			VA
Mr.	Copeland	Peter	F	Copeca Farms	VA
Ms.	Crumpler	Letitia		Sandy Ridge Farms, Inc.	VA
Mr.	Cur	Edmond	R		VA

Ms.	Daniel	Joan	G			VA
Mr.	Dianis	Matthew & George	G		Dianis Brothers	VA
Mr.	Doyle	Joey	R		RE and Rodger R. Drake, In	VA
Mr.	Drake	Rodger	G		Sandy Ridge Farms, Inc.	VA
Mr.	Drake	Michael	S		D & T Farms	VA
Mr.	Drake	Edward	B			VA
Mr.	Drake	Rodger	T		George T. Drake & Son, Inc.	VA
Mr.	Drake, Jr.	George	F		Drake Farms	VA
Mr.	Drake, Jr.	Walter	L		Drake Brothers Farms	VA
Mr.	Drake, Jr.	Willie			BLD Farms LLC	VA
Mr.	Drewry	Burton	H		Magnolia Farms	VA
Mr.	Drewry	David & Burton	B		Drewry Lane Farms	VA
Mr.	Drewry, III	John	M		S.B. Drewry, Jr. Farms	VA
Mr.	Drewry, Jr.	Sam	M			VA
Mr.	Dunn	Keith	M			VA
Mr.	Dunn	Harvey	Milton			VA
Mr.	Dunn	John	O			VA
Mr.	Edwards	Kenny	F		Philip Edwards Farms	VA
Mr.	Edwards	Philip	S		Edwards Farms	VA
Mr.	Edwards	Gregory	A		Edwards Farms	VA
Mr.	Edwards	Drew	H		Oak Grove Dairy	VA
Mr.	Edwards	Gene	Randy		E & E Crop Management	VA
Mr.	Ellis	Partridge &	V		Old Hickory Farms, Inc.	VA
Mr.	Epps	William	L		Everett Farms	VA
Mr.	Everett	Lance	L			VA
Mr.	Everett	Marvin	L			VA
Mr.	Everett, Jr.	John	Ludwig		Sandy Grove Farms, Inc.	VA
Mr.	Fajna	John				VA
Mr.	Fajna, Jr.	J				VA
Mr.	Farms	Wiley	D			VA
Mr.	Farms	Draper	Brent			VA
Mr.	Farms, Inc.	Babb	P		Felts Farms, Inc.	VA
Mr.	Felts	Charles	S			VA
Mr.	Felts	F	S			VA
Mr.	Felts	Larry				VA
Mr.	Ferguson, Jr.	James (Jamie)				VA
Mr.	Ferguson, Sr.	James				VA
Mr.	Francis	Glenn				VA
Mr.	Francis	Brian				VA
Mr.	Futrell, Jr.	Harold	P			VA
Mr.	Gill, Jr.	Calvin	Carter			VA
Mr.	Gray	Richard	B		Gray Farms	VA
Mr.	Gray	Wayne	T			VA
Mr.	Gray					VA

Mr.	Gray	James	W	VA
Mr.	Gray	Roger	C	VA
Mr.	Gray, Jr.	Roger	G	VA
Mr.	Hall	Ira	B	VA
Mr.	Harrell	Jesse	B	VA
Mr.	Harrell	J	C	VA
Ms.	Harrison	Sandra	B	VA
Mr.	Harville	Preston	B	VA
Mr.	Hatfield	J	Edward	VA
Ms.	Haver	Lisa	H	SC
Mr.	Hawkins	Glenn	H	VA
Mr.	Hawkins	Jimmy	H	VA
Mr.	Hawkins	Jason	L	VA
Ms.	Hawthorne	Lily	L	VA
Mr.	Holdsworth	David	L	VA
Mr.	Holland	Edwin	D	VA
Mr.	Holland	Jason	D	VA
Mr.	Holloway	Clinton	W	VA
Mr.	Ivey	Thomas	E	VA
Mr.	Jarratt	William	W	VA
Mr.	Jarratt	Melvin	A	VA
Mr.	Jarratt	Benjamin	L	VA
Mr.	Jarratt	Benjamin	Earl	VA
Mr.	Johnson	Alvis	L	VA
Mr.	Johnson	Richard	J	VA
Mr.	Johnson	Matthew	E	VA
Mr.	Johnson	James	D	VA
Mr.	Johnson	Joseph	W	VA
Mr.	Jones, Jr.	James	W	VA
Mr.	Jones, Jr.	Thomas	Ray	VA
Mr.	Kanusek	James	E	VA
Mr.	Kindred	William	H	VA
Mr.	Knight	Jefferson	L	VA
Mr.	Lassiter, Jr.	Rolo	T	VA
Ms.	Lee	Barbara	C	VA
Mr.	Lee	Wilmer	M	VA
Mr.	Lee	David	B	VA
Mr.	Lowery	Preston	T	VA
Mr.	Marks	Michael	J	VA
Mr.	Matthews	C	G	VA
Mr.	Moore	Glenn	R	VA
Mr.	Moss	Michael	W	VA
Mr.	Newsome	Patrick	L	VA
Mr.	Not - Yam, Jr.	John	M	VA

C.G. Glover Farms, Inc.

Cross Roads Farms

Oak View Farm

J &amp; J Farms

Jones Farms, Inc.

Lee Farms

Lee Farms

Marks Farms

C.G. Matthews &amp; Son, Inc.

Moore Farms

Newsome Farms

Mr.	Uwen	Charles	H	RMC Owen Farm	VA
Mr.	Owen	Robert	T	R.T. Owen & Sons L.L.C.	VA
Mr.	Parson	Fredrick	P		VA
Mr.	Partridge	Eddie	A		VA
Mr.	Pittman, Jr.	Robert	D	Pittman Farms	VA
Mr.	Poarch, Sr.	William	S		VA
Mr.	Pope	Jeffrey	W	Magnolia (1068)	VA
Mr.	Pope	Sam	E	Home Farm (3257)	VA
Mr.	Pope	Jeffrey	W	Rose Hill (2339)	VA
Mr.	Pope	Mark	W	Smith Farm (2417)	VA
Mr.	Porter	J.L.		B. & R. Farms, Inc.	VA
Mr.	Porter	Bobby	L	B. & R. Farms, Inc.	VA
Mr.	Powell	Kenny	W		VA
Mr.	Powell, III	Robert	H	Powell Farms L.L.C.	VA
Mr.	Redd, Jr.	Charles	L	Redd & Redd	VA
Mr.	Rideout	Charles	W		VA
Mr.	Rideout	Nannie	P		VA
Mr.	Rideout, Jr.	James	R		VA
Mr.	Rideout, Sr.	James	R		VA
Mr.	Robinson	Jack	C		VA
Mr.	Robinson	Sidney	R	Randy Robinson Farms	VA
Mr.	Robinson	Mike	W	Mike Robinson Farms, Inc.	VA
Mr.	Rogers	Jerry	L		VA
Mr.	Savage	William	C		VA
Mr.	Savage	Sarah	P		VA
Mr.	Sebera	John	R		VA
Mr.	Seward	Robert	W		VA
Mr.	Smith	Carter	A	Carter A. Smith Farms LLC	VA
Mr.	Smith	Stuart	M	Stuart M. Smith Farms LLC	VA
Mr.	Smith	R	L		VA
Ms.	Smith	Margaret	R		VA
Mr.	Speight	Robert	B	Greenway Farms LTD	VA
Mr.	Spiers	Douglas	W	Wayne Spiers Farming	VA
Ms.	Spiers	Alice	B		VA
Mr.	Spiers	Robert	H		VA
Ms.	Story	Louise	W		VA
Mr.	Temple	Major	B		VA
Mr.	Thomas	Horace			VA
Mr.	Thorpe	George	L	Oakland Farms	VA
Mr.	Thorpe	John	B	JB Thorpe Farms	VA
Mr.	Thorpe	Matthew	T	JB Thorpe Farms	VA
Mr.	Trust	Steven			VA
Mr.	Veliky	Benjamin	Hall		VA
Mr.	Wer	Harry Lee			VA



Mr.	West	Wayland	H		VA
Mr.	Williams	James	Robert		VA
Mr.	Woodruff, Jr.	John			VA
Mr.	Worrell	Howard	Carter	ROSEWORREL	VA
Mr.	Wray	Aubry	E	Shady Oaks Farm Inc.	VA
Mr.	Young	Walter	L	Rose Valley Farms	VA
				Fox Farms	VA

TITLE	LAST	FIRST	M.I.	FARM NAME	ADDRESS	CITY	COUNTY	STATE	ZIP	FIRST TELEPHONE	SECOND TELEPHONE	ACRES	& PAID	Agreement R
Mr.	Marsh	William	R	Will Marsh Farms				SC						

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 4:02-CV-159-H

FILED

FEB 7 2003

DAVID W. DANIEL, CLERK  
US DISTRICT COURT  
E. DIST. N. CAROLINA

MARVIN TAYLOR BARNHILL, JERRY )  
HAMILL, JOHN BRANHAM, CLARK )  
JENKINS, TOM CLEMENTS, DAVID )  
GRANT, TIM PHELPS, TOMMY )  
FLYTHE, JIM FERGUSON, GLENN )  
HAWKINS, BILLY BAIN, GLEN )  
MOORE, R.L. SMITH, H. STEVEN )  
ALLEN and OTHERS SIMILARLY )  
SITUATED, )

Plaintiffs, )

v. )

ROSS J. DAVIDSON, )  
ADMINISTRATOR FOR RISK )  
MANAGEMENT AGENCY, RISK )  
MANAGEMENT AGENCY UNITED )  
STATES OF AMERICA, ANN M. )  
VENEMAN, SECRETARY OF )  
AGRICULTURE FOR THE UNITED )  
STATES OF AMERICA, and UNITED )  
STATES DEPARTMENT OF )  
AGRICULTURE, )


Defendants. )

ORDER

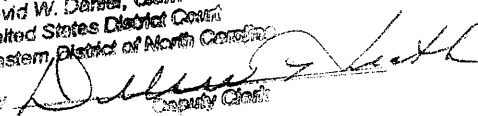
Plaintiffs filed a motion to join additional parties contemporaneously with their complaint on November 19, 2002. Defendants did not respond to that motion, and it was granted by this court on January 22, 2003. This matter is now before the court on plaintiffs' second motion to join additional parties, filed January 22, 2003. For good cause shown, plaintiffs' second motion to join additional parties is GRANTED. Pursuant to Fed. R. Civ. P. 20, the persons listed in Exhibit "A" of plaintiffs' second

motion to join additional parties are hereby allowed as plaintiffs  
in this action.

This 6<sup>th</sup> day of February, 2003.

  
MALCOLM J. HOWARD  
United States District Judge

At Greenville, NC  
#3

Verify the foregoing to be a true and correct  
copy of the original.  
David W. Deniel, Clerk  
United States District Court  
Eastern District of North Carolina  
By   
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

**ORIGINAL FILED**

**MAR 23 2004**

LARRY W. PROPPES, CLERK  
COLUMBIA, SC

**SOUTH CAROLINA PEANUT FARMERS:**  
WALLACE A. BERRY, WILLIAM MARSH  
and OTHER SIMILARLY SITUATED,  
Plaintiffs

v.

C/A No.: 3:03-1631-10

ROSS J. DAVIDSON, ADMINISTRATOR FOR  
RISK MANAGEMENT AGENCY, RISK  
MANAGEMENT AGENCY, UNITED STATES  
OF AMERICA, ANN M. VENEMAN,  
SECRETARY OF AGRICULTURE FOR THE  
UNITED STATES OF AMERICA and UNITED  
STATES DEPARTMENT OF AGRICULTURE,  
Defendants.

**AMENDED COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE RELIEF**

**I. INTRODUCTION**

1. Plaintiffs are South Carolina farmers in the "V-C Growing Region" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who have applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in South Carolina who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the



Multiple Peril Crop Insurance Policy, which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U.S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiffs previously filed Petitions with the United State Department of Agriculture complaining of Defendants' actions and seeking administrative relief. Plaintiffs previously filed a Complaint in the Federal Court of Claims seeking relief from the Defendants' actions. A similar suit was previously filed in the Eastern District of North Carolina. Plaintiffs are filing this Complaint to preserve their claims against any jurisdictional defense or similar defenses if raised against the Petitions and Complaints previously filed on behalf of these Plaintiffs and all other plaintiffs similarly situated.

## II. PARTIES AND JURISDICTION

7. Plaintiffs are as follows:

a. Plaintiffs Wallace A. Berry and William R. are peanut farmers who farm and reside in Lee County, South Carolina.

8. Defendants are as follows:

a. Ann M. Veneman, is Secretary of Agriculture for the United States of America;

b. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U. S. C. § 1505(d), and is also Administrator of the Risk Management Agency; and

c. The Risk Management Agency (RMA) was established under provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Freedom to Farm Act), P. L. 104-127, approved April 4, 1996. It is an independent office within the United States Department of Agriculture responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and enforcement of programs authorized under the Federal Crop Insurance Act. (See 7 U. S. C. §§ 1501 *et seq.*).

9. The RMA Regional Office that serves South Carolina is located in Valdosta, Georgia.

10. Defendants, including the United States of America and the United States Department of Agriculture (hereinafter the "Government,") through its right to contract with private citizens have waived sovereign immunity as a defense to the contract entered into by the parties and specifically waived its rights of sovereign immunity in the insurance contract.

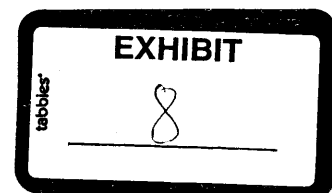
11. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution,

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

**TEXAS PEANUT FARMERS:**

1. BILLY M. BARNES;
2. JACOB F. BOSCHMAN;
3. DARRELL WAYNE BROWN;
4. WILLIAM DWAIN CARROLL;
5. RANDY D. DECKER;
6. LORAIN FISCHEE ESTATE;
7. BILL GAYLE;
8. JAY GRIMSHAW;
9. DAVID and PAM GROSCHE;
10. MELVIN O. ISELT;
11. LORINE B. ISELT;
12. TOMMY JOHNSON;
13. PORTER JONES;
14. LUTHER DON KEITH;
15. ROBERT D. KEITH;
16. RONALD SCOTT KOONCE;
17. LOYAL LASITER;
18. R. S. LAWRENCE;
19. DAVID GENE LEHMANN;
20. PHILIP S. LEWIS;
21. J. W. LOGAN;
22. TERRY M. MATHIS;
23. TIMOTHY L. MATTHEWS;
24. BILLY R. MEADORF;
25. TOMMIE R. MERCER;
26. SAMMY MORGAN;
27. DELBERT L. OTWELL;
28. LEON A. PELZEL;
29. GLYNN PENNINGTON;
30. MIKE QUATTRIN;
31. WALTER DONALD REGISTER;
32. ELMER WAYNE REYNOLDS, JR.;
33. JOE ROBINSTON ESTATE;
34. GWEN SCARBROUGH;
35. JIMMY SEAY;
36. BILLY W. SHANNON;
37. BILLY NEAL SHANNON;
38. TERRY LEE STACY;
39. BRADLEE DAVIN STACY;
40. TROYAT UNDERWOOD;
41. CLARENCE C. WASCHSMANN;
42. SUVELLA WALKER;
43. JULIUS WELLS ESTATE;
44. WANDA WINTER;

Civil Action No. 2-03C v-120





45.	PEGGY S. WOODS;	§
46.	HEIDI and JOE ED WORD;	§
47.	A.L.H.M. INC;	§
48.	F.A.C.E., INC.;	§
49.	WADE PENNINGTON & SONS FARMS,	§
	FN 4798;	§
50.	WADE PENNINGTON & SONS FARMS,	§
	FN 5868;	§
51.	M. E. WATSON FARMS, INC.;	§
	and OTHERS SIMILARLY SITUATED,	§
	Plaintiffs,	§
		§
VS.		§
		§
1.	ROSS J. DAVIDSON, ADMINISTRATOR	§
	FOR RISK MANAGEMENT AGENCY;	§
2.	RISK MANAGEMENT AGENCY;	§
3.	UNITED STATES OF AMERICA;	§
4.	ANN M. VENEMAN, SECRETARY OF	§
	AGRICULTURE FOR THE UNITED	§
	STATES OF AMERICA; and	§
5.	UNITED STATES DEPARTMENT OF	§
	AGRICULTURE.	§
	Defendants.	

---

**PLAINTIFFS' COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

**I. INTRODUCTION**

1. Plaintiffs are Texas farmers in the "Southwest Growing Region" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who have applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Texas who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the Multiple Peril Crop Insurance Policy which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U. S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiff Peanut Farmers further seek a preliminary injunction forbidding the Secretary of Agriculture or the Administrator of the RMA from illegally and unconstitutionally demanding that farmers waive their property right to the Multiple Peril Crop Insurance Policy as published in the Federal Register and Code of Federal Regulations or else have their peanut peril insurance coverage rejected or cancelled for the 2002 crop year and future years.

7. Plaintiffs previously filed Petitions with the United State Department of Agriculture complaining of Defendants' actions and seeking administrative relief. Plaintiffs previously filed a Complaint in the Federal Court of Claims seeking relief from the Defendants' actions. A similar suit was previously filed in the Eastern District of North Carolina. Plaintiffs are filing this Complaint to preserve their claims against any jurisdictional defense or similar

defenses if raised against the Petitions and Complaints previously filed on behalf of these Plaintiffs and all other plaintiffs similarly situated.

## **II. PARTIES AND JURISDICTION**

8. Plaintiff Darrell Wayne Brown is a peanut farmer who farms and resides in Anderson County, Texas.

9. Plaintiff Jimmy Seay is a peanut farmer who farms and resides in Atascosa County, Texas.

10. Plaintiff Elmer Wayne Reynolds, Jr. is a peanut farmer who farms and resides in Collingsworth County, Texas.

11. Plaintiffs Billy M. Barnes, Ronald Scott Koonce, Terry M. Mathis, Timothy L. Matthews, Delbert L. Otwell and Troyat Underwood are peanut farmers who farm and reside in Comanche County, Texas.

12. Plaintiff Loraine Fischer Estate is a peanut farm in Denton County, Texas.

13. Plaintiffs Jay Grimshaw, Benny D. Hagan, Philip S. Lewis, Terry Lee Stacy and Bradlee Davin Stacy are peanut farmers who farm and reside in Eastland County, Texas.

14. Plaintiffs Randy D. Decker, Luther Don Keith and Robert D. Keith are peanut farmers who farm and reside in Erath County, Texas.

15. Plaintiff David Gene Lehmann is a peanut farmer who farms and resides in Fayette County, Texas.

16. Plaintiffs Jacob F. Boschman and R. S. Lawrence are peanut farmers who farm and reside in Gaines County, Texas.

17. Plaintiff A.L.H.M. Inc. is a peanut farm in Gaines County, Texas.

18. Plaintiff Leon A. Pelzel is a peanut farmer who farms and resides in Grayson County, Texas.

19. Plaintiffs Billy Neal Shannon and Peggy S. Woods are peanut farmers who farm and reside in Hall County, Texas.

20. Plaintiff M.E. Watson Farms, Inc. is a peanut farm in Hardeman County, Texas.

21. Plaintiffs Bill Gayle, Larry Gene Huff, Tommy Johnson, Porter Jones, Loyal Lasiter, J.W. Logan, Sammy Morgan, Glynn Pennington, Mike Quattran, the Joe Robinson Estate, Gwen Scarbrough, Suvella Walker, the Julius Wells Estate, Wanda Winter, Wade Pennington & Sons Farms, FN 4798 and Wade Pennington & Sons Farms, FN 5868 are peanut farmers who farm and reside in Houston County, Texas.

22. Plaintiff Walter Donald Register is a peanut farmer who farms and resides in Irwin County, Texas.

23. Plaintiffs Clark Foster, Tommie R. Mercer and Richard R. Shewood are peanut farmers who farm and reside in Lamar County, Texas.

24. Plaintiffs Melvin O. Iselt, Lorine B. Iselt, Calvin W. Schmank and Clarence C. Wachsmann are peanut farmers who farm and reside in Lee County, Texas.

25. Plaintiff Billy W. Shannon is a peanut farmer who farms and resides in Motley County, Texas.

26. Plaintiff Billy R. Meadorf is a peanut farmer who farms and resides in Stonewall County, Texas.

27. Plaintiffs David and Pam Groschke are peanut farmers who farm and reside in Waller County, Texas.

28. Plaintiffs Heidi and Joe Ed Word are peanut farmers who farm and reside in Wilburger County, Texas.

29. Defendant Ann M. Veneman, is Secretary of Agriculture for the United States of America.

30. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U. S. C. § 1505(d), and is also Administrator of the Risk Management Agency.

31. The Risk Management Agency (RMA) was established under provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Freedom to Farm Act), P.L. 104-127, approved April 4, 1996. It is an independent office within the United States Department of Agriculture responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and enforcement of programs authorized under the Federal Crop Insurance Act. (See 7 U. S. C. §§ 1501 *et seq.*).

32. The RMA Regional Office that serves Texas is located in Oklahoma City, Oklahoma.

33. Defendants, including the United States of America and the United States Department of Agriculture (hereinafter the "Government,") through its right to contract with private citizens have waived sovereign immunity as a defense to the contract entered into by the parties and specifically waived its rights of sovereign immunity in the insurance contract.

34. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.") This action arises under the Federal Crop Insurance Act, 7 U.S.C. §§ 1501, *et seq.*, and the Constitution of the United States.

35. The Plaintiffs' cause of action is created by the judicial review provisions of the Administrative Procedures Act, 5 U.S.C. § 702-706.

36. To date, Plaintiff Peanut Farmers complied with all terms and conditions of the insurance contract as required by Paragraph 25 of the Multiple Peril Crop Insurance Policy.

37. For Plaintiff Peanut Farmers to make individual administrative claims would be an effort in futility in that Plaintiff Peanut Farmers have been advised by Defendants that the

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
FILE No \_\_\_\_\_

2:10  
MAY - 8 2003  
Jc  
CLERK/US DISTRICT COURT  
NORFOLK, VA

COPY

VIRGINIA PEANUT FARMERS: TOM  
CLEMENTS; JIM FERGUSON; GLEN  
HAWKINS; BILLY BAIN; GLEN MOORE; R. L.  
SMITH; H. STEPHEN ALLEN and OTHERS  
SIMILARLY SITUATED,

Plaintiffs,

v.

ROSS J. DAVIDSON, ADMINISTRATOR FOR  
RISK MANAGEMENT AGENCY, RISK  
MANAGEMENT AGENCY, UNITED STATES  
OF AMERICA, ANN M. VENEMAN,  
SECRETARY OF AGRICULTURE FOR THE  
UNITED STATES OF AMERICA, and UNITED  
STATES DEPARTMENT OF AGRICULTURE,  
Defendants.

COMPLAINT FOR  
DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF

2:03cv352

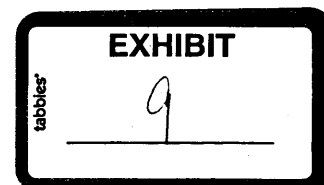
I. INTRODUCTION

1. Plaintiffs are Virginia farmers in the "V-C Growing Area" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who have applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Virginia who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the Multiple Peril Crop Insurance Policy which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

Clerk's Note: See 6/9/03 order amending  
Caption *ren*



1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
FILE No 2:03-CV-352

VIRGINIA PEANUT FARMERS: TOM )  
CLEMENTS; JIM FERGUSON; GLEN )  
HAWKINS; BILLY BAIN; GLEN MOORE; R. L. )  
SMITH; H. STEPHEN ALLEN and OTHERS )  
SIMILARLY SITUATED, )

Plaintiffs, )

v. )

ROSS J. DAVIDSON, ADMINISTRATOR FOR )  
RISK MANAGEMENT AGENCY, RISK )  
MANAGEMENT AGENCY, UNITED STATES )  
OF AMERICA, ANN M. VENEMAN, )  
SECRETARY OF AGRICULTURE FOR THE )  
UNITED STATES OF AMERICA, and UNITED )  
STATES DEPARTMENT OF AGRICULTURE, )

Defendants. )

COMPLAINT FOR  
DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF

I. INTRODUCTION

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4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U. S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiff Peanut Farmers further seek a preliminary injunction forbidding the Secretary of Agriculture or the Administrator of the RMA from illegally and unconstitutionally demanding that farmers waive their property right to the Multiple Peril Crop Insurance Policy as published in the Federal Register and Code of Federal Regulations or else have their peanut peril insurance coverage rejected or cancelled for the 2002 crop year and future years.

## II. PARTIES AND JURISDICTION

7. Plaintiffs previously filed Petitions with the United State Department of Agriculture complaining of Defendants' actions and seeking administrative relief. A similar suit was previously filed in the Eastern District of North Carolina. Plaintiffs are filing this Complaint to preserve their claims against any jurisdictional defense or similar defenses if raised against the Petitions and Complaints previously filed on behalf of these Plaintiffs and all other plaintiffs similarly situated.



8. Plaintiff Tom Clements is a peanut farmer who farms and resides in Virginia.

9. Plaintiffs Jim Ferguson, Glen Hawkins, Billy Bain, Glen Moore, R. L. Smith and H. Stephen Allen are peanut farmers who farm and reside in the Virginia-Carolina Growing Area.

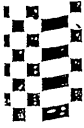
10. Defendant Ann M. Veneman, is Secretary of Agriculture for the United States of America.

11. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U. S. C. § 1505(d), and is also Administrator of the Risk Management Agency.

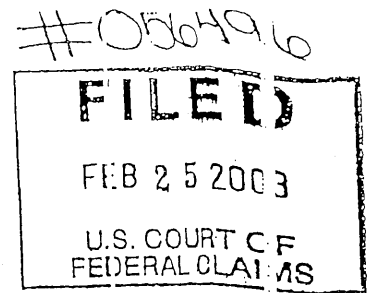
12. The Risk Management Agency (RMA) was established under provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Freedom to Farm Act), P.L. 104-127, approved April 4, 1996. It is an independent office within the United States Department of Agriculture responsible for supervision of the Federal Crop Insurance Corporation (FCIC) and the administration and enforcement of programs authorized under the Federal Crop Insurance Act. (See 7 U. S. C. §§ 1501 *et seq.*).

13. The RMA Regional Office that serves North Carolina and Virginia is located in Raleigh, North Carolina which is in the Eastern District of North Carolina.

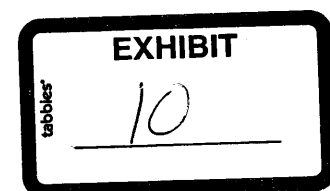
14. Defendants, including the United States of America and the United States Department of Agriculture (hereinafter the "Government,") through its right to contract with private citizens have waived sovereign immunity as a defense to the contract entered into by the parties and specifically waived its rights of sovereign immunity in the insurance contract.

**ORIGINAL**

IN THE UNITED STATES COURT OF FEDERAL CLAIMS



TEXAS PEANUT FARMERS; BILLY M. )  
BARNES; JACOB F. BOSCHMAN; DARRELL )  
WAYNE BROWN; WILLIAM DWAIN )  
CARROLL; RANDY D. DECKER; LORAIN )  
FISCHER ESTATE; BILL GAYLE; JAY )  
GRIMSHAW; DAVID and PAM GROSCHE; )  
MELVIN O. ISELT; LORINE B. ISELT; TOMMY )  
JOHNSON; PORTER JONES; LUTHER DON )  
KEITH; ROBERT D. KEITH; RONALD SCOTT )  
KOONCE; LOYAL LASITER; R. S. )  
LAWRENCE; DAVID GENE LEHMANN; )  
PHILIP S. LEWIS; J. W. LOGAN; TERRY M. )  
MATHIS; TIMOTHY L. MATTHEWS; BILLY R )  
MEADORF; TOMMIE R. MERCER; SAMMY )  
MORGAN; DELBERT L. OTWELL; LEON A. )  
PELZEL; GLYNN PENNINGTON; MIKE )  
QUATTRIN; WALTER DONALD REGISTER; )  
ELMER WAYNE REYNOLDS, JR.; JOE )  
ROBINSTON ESTATE; GWEN SCARBROUGH; )  
JIMMY SEAY; BILLY W. SHANNON; BILLY )  
NEAL SHANNON; TERRY LEE STACY; )  
BRADLEE DAVIN STACY; TROYAT )  
UNDERWOOD; CLARENCE C. )  
WASCHSMANN; SUVELLA WALKER; JULIUS )  
WELLS ESTATE; WANDA WINTER; PEGGY S. )  
WOODS; HEIDI and JOE ED WORD; A.L.H.M. )  
Inc; F.A.C.E., INC.; WADE PENNINGTON & )  
SONS FARMS, FN 4798; WADE PENNINGTON )  
& SONS FARMS, FN 5868; M. E. WATSON )  
FARMS, INC.; GEORGIA PEANUT FARMERS: )  
BRADFORD L. CARROLL; EDWIN CLARK; )  
MICHAEL H. COBB; WALTER L. DAVENPORT; )  
TREY HAMILTON DUNAWAY; JOHN L. )  
EUBANKS; ERIC S. GIBBS; JOSEPH GWINES; )  
ROBIN GWINES; DANNY W. HAWKINS; )  
STEVE E. HOUSTON; CHARLES L. ISRAEL; )  
JUSTIN ISRAEL JOHNSON; WILLIAM G. )  
JONES; LARRY JONES; SHERWOOD T. KING; )  
ROBERT A. LANCASTER; JIMMY M. )  
McCLURE; ANN G. McCLURE; ROYCE )  
McCRARY; TIMOTHY E. McMILLAN; )  
MARVIN MOSS; CLIFFORD L. OLIVER; )  
WILLIE J. PROTHO; BILLY SENKBEIL; DAN )

No. **03 - 445 C**

W. SMITH; CHARLES E. SMITH, JR.; EUGENE )  
 WILLIAMS; and GRIGGS FARMS; ALABAMA )  
 PEANUT FARMERS: TERRY E. BEASLEY; )  
 LLOYD D. BRYANT; ELAINE O. BRYANT; )  
 LARRY WOOD MARSHALL; FLORIDA )  
 PEANUT FARMERS: JAMES C. BARNES; )  
 BRUCE GODWIN; JOSEPH M. DIAMOND; )  
 DONNIE FRANK LWRY; ALLAN EDWARDS; )  
 SOUTH CAROLINA PEANUT FARMERS: )  
 WALLACE A. BERRY; WILLIAM R. MARSH; )  
 and OTHERS SIMILARLY SITUATED, )  
 Plaintiffs, )

vs. )

ROSS J. DAVIDSON, ADMINISTRATOR FOR )  
 RISK MANAGEMENT AGENCY, RISK )  
 MANAGEMENT AGENCY, UNITED STATES )  
 OF AMERICA, ANN M. VENEMAN, )  
 SECRETARY OF AGRICULTURE FOR THE )  
 UNITED STATES OF AMERICA, UNITED )  
 STATES DEPARTMENT OF AGRICULTURE, )  
 RON BERRYHILL, RMA REGIONAL OFFICE )  
 DIRECTOR, Oklahoma City, Oklahoma; and )  
 MIKE MOORE, RMA REGIONAL OFFICE )  
 DIRECTOR, Valdosta, Georgia, )  
 Defendants. )

## COMPLAINT

### I. INTRODUCTION

1. Plaintiffs are peanut farmers in Texas, Georgia, Alabama, Florida and South Carolina in the "Southwestern and Southeastern Growing Area" (hereinafter Plaintiff Peanut Farmers) who grow and harvest peanuts and who applied for and received Multiple Peril Crop Insurance Policies for the growing season of 2002.

2. Plaintiff Peanut Farmers bring this class action on behalf of all peanut farmers in Texas, Georgia, Alabama, Florida, and South Carolina who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002 and are similarly situated to the named Plaintiffs.

3. Plaintiff Peanut Farmers bring this action to challenge the unlawful and unilateral contract modification and impairment that Defendants made on or after May 13, 2002 to the Multiple Peril Crop Insurance Policy which changed the price guarantee of their insurance protection by reducing it from \$.31 to \$.1775 per pound of peanuts.

4. Plaintiff Peanut Farmers seek, among other claims for relief, a declaratory judgment pursuant to RFCC Rule 57 that the Defendants' conduct in unilaterally and retrospectively changing the terms and conditions of the contract for insurance breaches the contract, is contrary to law as set forth in *U.S. v. Winstar*, 518 U.S. 839, 116 S. Ct. 2432, 135 L.Ed. 2d 964 (1996), violates statutory requirements for changes in policies and is arbitrary and capricious and therefore unconstitutional. Defendants' conduct also destroys Plaintiffs' reasonable expectations and impairs other existing contracts and thus deprives them of their property without due process of law.

5. In addition, Plaintiff Peanut Farmers seek injunctive relief to compel the Defendants including USDA and RMA to honor the contract to provide insurance at the agreed contractual coverage of \$.31 per pound.

6. Plaintiff Peanut Farmers further seek a preliminary injunction forbidding the Secretary of Agriculture or the Administrator of the RMA from illegally and unconstitutionally demanding that farmers waive their property right to the Multiple Peril Crop Insurance Policy as published in the Federal Register and Code of Federal Regulations or else have their peanut peril insurance coverage rejected or cancelled for the 2002 crop year and future years.

## II. PARTIES AND JURISDICTION

7. Plaintiffs Billy M. Barnes; Jacob F. Boschman; Darrell Wayne Brown; William Dwain Carroll; Randy D. Decker; Loraine Fischer Estate; Bill Gayle; Jay Grimshaw; David and

Pam Groschke; Melvin O. Iselt; Lorine B. Iselt; Tommy Johnson; Porter Jones; Luther Don Keith; Robert D. Keith; Ronald Scott Koonce; Loyal Lasiter; R.S. Lawrence; David Gene Lehmann; Philip S. Lewis; J. W. Logan; Terry M. Mathis; Timothy L. Matthews; Billy R. Meadorf; Tommie R. Mercer; Sammy Morgan; Delbert L. Otwell; Leon A. Pelzel; Glynn Pennington; Mike Quattrin; Walter Donald Register; Elmer Wayne Reynolds, Jr.; Joe Robinson Estate; Gwen Scarbrough; Jimmy Seay; Billy W. Shannon; Billy Neal Shannon; Terry Lee Stacy; Bradlee Davin Stacy; Troyat Underwood; Clarence C. Waschsmann; Suvella Walker; Julius Wells Estate; Wanda Winter; Peggy S. Woods; Heidi and Joe Ed Word are peanut farmers who farm and reside in Comanche County, Gaines County, Anderson County, Erath County, Denton County, Houston County, Eastland County, Waller County, Lee County, Fayette County, Stonewall County, Lamar County, Grayson County, Irwin County, Collingsworth County, Atascosa County, Motley County, Hall County, Wilbarger County and Hardeman County, Texas.

8. Plaintiffs Bradford L. Carroll; Edwin Clark; Michael H. Cobb; Walter L. Davenport; Trey Hamilton Dunaway; John L. Eubanks; Eric S. Gibbs; Joseph Gwines; Robin Gwines; Danny W. Hawkins; Steve E. Houston; Charles L. Israel; Justin Israel Johnson; William G. Jones; Larry Jones; Sherwood T. King; Robert A. Lancaster; Jimmy M. McClure; Ann G. McClure; Royce McCrary; Timothy E. McMillan; Marvin Moss; Clifford L. Oliver; Willie J. Protho; Billy Senkbeil; Dan W. Smith; Charles E. Smith, Jr.; Eugene Williams are peanut farmers who farm and reside in Ben Hill County, Wilcox County, Miller County, Sumter County, Pulaski County, Mitchell County, Worth County, Grady County, Stewart County and Berrien County, Georgia.

9. Plaintiffs Terry E. Beasley; Lloyd D. Bryant; Elaine O. Bryant; Larry Wood Marshall are peanut farmers who farm and reside in Henry County and Opp County, Alabama.

10. Plaintiffs James C. Barnes, Bruce Godwin, Joseph M. Diamond, Donnie Frank Lowry, and Allan Edwards are peanut farmers who farm and reside in Jackson County and Santa Rosa County, Florida.

11. Plaintiffs Wallace A. Berry and William R. Marsh are peanut farmers who farm and reside in Lee County, South Carolina.

12. Defendant Ann M. Veneman, is Secretary of Agriculture for the United States of America.

13. Defendant Ross J. Davidson is Manager and Chief Executive Officer for the Federal Crop Insurance Corporation 7 U.S.C. § 1505(d), and is also Administrator of the Risk Management Agency.

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15. The RMA Regional Office that serves Georgia, Alabama, Florida, and South Carolina is located in Valdosta, Georgia, and the Regional Office Director is Mike Moore.

16. The RMA Regional Office that serves Texas is located in Oklahoma City, Oklahoma, and the Regional Office Director is Ron Berryhill.

Last Name	First Name	Middle Initial	County
<b>Northern District of Texas</b>			
Barnes	Billy		Commanche
Boschman	Jacob		Gaines
Carroll	William	Dwain	Anderson
Decker	Randy	D	Erath
Grimshaw	Jay		Eastland
Keith	Luther	Don	Erath
Keith	Robert	D	Erath
Koonce	Ronald	Scott	Commanche
Lawrence	R.S.		Gaines
Lewis	Philip	S	Eastland
Mathis	Terry	M	Commanche
Matthews	Timothy	L	Commanche
Meadorf	Billy	R	Stonewall
Otwell	Delbert	L	Commanche
Reynolds, Jr.	Elmer	Wayne	Collingsworth
Shannon	Billy	Wayne	Motley
Shannon	Billy	Neal	Motley
Stacy	Terry	Lee	Eastland
Stacy	Bradlee	Davin	Eastland
Underwood	Troyat		Commanche
Woods	Peggy	S	Hall
Word	Heidi & JoeEd		Wilburger
A.L.H.M., Inc	Inc.		Gaines
F.A.C.E., Inc.			Gaines
M.E. Watson Farms, Inc.			Hardeman
<b>Western District of Texas</b>			
Iselt	Melvin	O	Lee
Iselt	Lorine	B	Lee
Seay	Jimmy		Atascosa
Wachsmann	Clarence	C	Lee
<b>Southern District of Texas</b>			
Groschke	David & Pam		Waller
Lehmann	David	Gene	Fayette
<b>Southern District of Georgia</b>			
Smith, Jr.	Charles	E	Jefferson

APR 4 2006  
 A TRUE COPY  
 TEST:

BRIAN BISHOP  
 Clerk, U.S. Court of Federal Claims

By *[Signature]*  
 Deputy Clerk

EXHIBIT

tabbies